

JOHN C. CRUDEN  
Assistant Attorney General  
U.S. Department of Justice  
Environment and Natural Resources Division

JOHN S. MOST  
Trial Attorney  
Natural Resources Section  
P.O. Box 7611 Washington, DC 20044  
202-616-3353, Fax 202-305-0506

*Counsel for Federal Defendants*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

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WILDEARTH GUARDIANS, ) CV 14-13-BLG-SPW-CSO  
Plaintiff, )  
 )  
v. )  
 )  
U.S. OFFICE OF SURFACE )  
MINING, RECLAMATION AND )  
ENFORCEMENT *et al.*, )  
Federal Defendants, )  
 )  
and )  
 )  
STATE OF MONTANA, SPRING )  
CREEK LLC, NATIONAL MINING )  
ASSOCIATION, )  
Defendant-Intervenors. )  
 )  
 )  
NORTHERN PLAINS RESOURCE ) CV 14-103-BLG-SPW-CSO  
COUNCIL INC. *et al.* )  
Plaintiffs, )

v. )  
JEWELL *et al.*, )  
Federal Defendants, )  
and )  
STATE OF MONTANA *et al.*, )  
Defendant-Intervenors. )  
\_\_\_\_\_  
)

On January 21, 2016, the Court issued its Opinion and Order adopting the findings and recommendations of Magistrate Judge Ostby, with the exception of the recommended remedy, which the Court modified. Doc. 135 at 8-9 (“Opinion and Order”). In particular, the Court ordered that vacatur of the challenged mining plan decision be deferred for a period of 240 days while Federal Defendants prepare an “updated environmental assessment” (hereafter, “EA”), *id.* at 9, under the National Environmental Policy Act (“NEPA”). In addition, the Court ordered Federal Defendants to file monthly status reports on progress, by the last business day of each month during the 240-day period.

Accordingly, undersigned counsel, on behalf of Federal Defendants, and based on a report furnished by representatives of the Office of Surface Mining Reclamation and Enforcement (“OSMRE”), *see* Ex. 1, reports as follows:

1. As previously reported, OSMRE has retained the service of a third-party consultant to assist in preparation of an EA for the mining plan approval of federal lease MTM 94378 and has developed a schedule establishing project milestones for completion of an EA by September 17, 2016. The consultant, WWC Engineering, is currently on schedule.

2. As also previously reported, OSMRE has given notice, by various means, to affected Tribes and the public of the agency's intent to prepare an EA and has announced a 30-day public comment period, which ended on March 12, 2016. Since Federal Defendants' previous report, the comment period has ended and OSMRE has provided copies of the comments received to the consultant. A total of 1,890 comments have been received. As exhibit 1 indicates, the comments will be used to identify substantive issues to be addressed in the EA.

3. OSMRE, in coordination with the consultant, has commenced development of the EA. OSMRE has reviewed and commented on a draft of the EA Purpose and Need statement and the Proposed Action and Alternatives, as initially prepared by the consultant. At present, the consultant is developing the Affected Environment and Environmental Consequences sections.

4. At this time, the project is on schedule and no delays are anticipated.

Respectfully submitted this 31st day of March, 2016.

JOHN C. CRUDEN  
Assistant Attorney General  
U.S. Department of Justice  
Environment and Natural Resources Division

/s/ John S. Most  
JOHN S. MOST, Trial Attorney  
Natural Resources Section  
P.O. Box 7611, Washington, D.C. 20044  
202-616-3353 (voice), 202-305-0506 (fax)  
[john.most@usdoj.gov](mailto:john.most@usdoj.gov)

*Counsel for Federal Defendants*

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing is being filed with the Clerk of the Court using the CM/ECF system, thereby serving it on all parties of record, this 31st day of March, 2016.

/s/ John S. Most  
JOHN S. MOST  
*Counsel for Federal Defendants*